

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF NEW YORK

UNITED STATES OF AMERICA,

Plaintiff,

v.

DECISION AND ORDER
16-CR-87-A

PETER STALLWORTH,

Defendant.

This case was referred to Magistrate Judge H. Kenneth Schroeder, Jr., pursuant to 28 U.S.C. § 636(b)(1) for the conduct of pretrial proceedings. On March 13, 2018, Magistrate Judge Schroeder filed a Report and Recommendation that recommends that defendant Stallworth's motions to suppress evidence, for a *Franks*¹ hearing, and to dismiss the Indictment should be denied.

No objections to the Report and Recommendation were filed by defendant Stallworth. Pursuant to 28 U.S.C. §636(b)(1), and for the reasons set forth in the Report and Recommendation, it is

ORDERED that the motions of defendant Stallworth to suppress, for a *Franks* hearing, and to dismiss the Indictment (Dkt. No. 46, 59) are denied for the reasons stated in the Report and Recommendation (Dkt. No. 71); and it is further

ORDERED that the parties shall appear to set a date for trial on September

¹ Under *Franks v. Delaware*, 438 U.S. 154 (1978), a presumption of the validity of affidavits in support of the trap-and-trace order and in support of the wiretap applications would yield, and defendant Stallworth would be entitled to an evidentiary hearing, upon his substantial preliminary showing of an intentional or reckless false statement that was integral to probable cause in an affidavit.

18, 2019, at 9:00 a.m.

IT IS SO ORDERED.

s/Richard J. Arcara
HONORABLE RICHARD J. ARCARA
UNITED STATES DISTRICT COURT

Dated: September 16, 2019